IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 06.11.2007

CORAM

THE HONOURABLE MR. JUSTICE S.J.MUKHOPADHAYA
AND
THE HONOURABLE MR. JUSTICE A.C.ARUMUGAPERUMAL ADITYAN

W.A. NO. 2325 OF 2001
AND
W.A.M.P. NO. 18088 OF 2001

1. The Management
   M.S.Mani Nadar
   Proprietor
   Meenakshi Hardware Stores
   Dindigul.

2. The Management
   M.Veeramani
   Meenakshi Hardware Stores
   Dindigul. .. Appellants/ Petitioners

- Vs -

1. The Presiding Officer
   Labour Court
   Madurai.

2. N.Murugan .. Respondents / Respondents

Writ Appeal filed against the order dated 13.09.2001 passed by learned single Judge in W.P.No.20330 of 1994 as stated therein.
W.P.No.20330 of 1994:- to issue a writ of certiorari calling for the records relating to the award dated 27.7.1994 passed I.D.No.264 of 1990 on the file of the presiding Officer, Labour Court, Madurai (the Ist respondent herein)

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For Appellant : Mr. S.Subbaiah

For Respondents : Mr. D.Nelliappan
(For R2)

JUDGMENT

S.J.MUKHOPADHAYA, J.

The appellant Management having unsuccessfully challenged the award dated 27th July, 1994 passed by Labour Court, Madurai, in I.D. No.264/90, preferred the writ appeal against the order passed by learned single Judge.

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2. According to the appellant, the 2nd respondent herein was working under his wife, Pushpammal, being a proprietary concern and after her death, the same was closed. During the life time of his wife Pushpammal, the 2nd respondent suddenly left the service on 20th Jan., 1990 on his own accord. Subsequently, he filed a false claim that he was dismissed from service without any charge or enquiry and raised an industrial dispute u/s 2 (A) (2) of the Industrial Disputes Act, 1947, registered as I.D. No.264/90, which was allowed by learned Presiding officer, Labour Court, by impugned award.

3. Further case of the appellant is that the management of Meenakshi Hardware Store was closed and the 2nd respondent having left the service voluntarily on 20th Jan., 1990, the dispute as raised was not maintainable. Learned Presiding Officer should have rejected the claim as the 2nd respondent was gainfully employed as a commission agent and having an income over Rs.1,000/= per month.

4. We have heard the parties and also noticed the award and the evidence on record, including the statement of the witnesses.

5. The submission as was made on behalf of the appellant that there was no evidence to suggest that the service of the 2nd respondent was terminated, cannot be accepted in view of the evidence on record as noticed by the learned single Judge. Before the Labour Court, apart from the oral evidence of the workman, who examined himself as W.W.1, the other witness, W.W.2 (Ponnaiya Pillai) was examined. According to W.W.2, in regard to termination of services of the workman, a panchayat was held in which the management agreed to and conceded to the request of the workman. It further appears that even before the Labour Officer – Conciliation Officer, it was agreed upon by the management that the workman will be allowed to join the service of the management. Taking into consideration the aforesaid evidence, a clear finding of fact having been arrived at by the Labour Court, as affirmed by learned single Judge, we find no ground to reverse such finding of fact in this writ appeal. There being no merit, the writ appeal is dismissed. Consequently, connected miscellaneous petition is also dismissed. However, there shall be no order as to costs.

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Asst. Registrar.

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Sub Asst. Registrar.

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To

The Presiding Officer
Labour Court
Madurai.

1 cc to Mr.S. Subbiah, Advocate, SR. 66537

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